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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,710	09/12/2003	Takahiro Nakano	500.38315VX2	7646
20457 7590 03/01/2011 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873				
EXAMINER NGUYEN, LUONG TRUNG				
ART UNIT 2622		PAPER NUMBER		
MAIL DATE 03/01/2011		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,710

Applicant(s)

NAKANO ET AL.

Examiner

LUONG T. NGUYEN

Art Unit

2622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-942)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The indication of allowability subject matter of claims 11, 17-21 has been withdrawn due to the rejection of these claims on the ground of nonstatutory obviousness-type double patenting over claims 1-6 of U.S. Patent No. 7,403,226 in view of Kijima et al. (US 6,661,451) as discussed below. A new non-final office action sets forth below.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 11, 17-21 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,403,226 in view of Kijima et al. (US 6,661,451).

Regarding instant application claim 11, the Patent Claim 1 discloses an electric camera comprising:

an image sensing device (an image sensing device, Patent Claim 1, lines 1-6) with a light receiving surface having N vertically arranged pixels and an arbitrary number of pixels arranged horizontally, N being equal to or more than three times the number of effective scanning lines M of a display screen of a television system;

a driver including a first driver mode (a driver mode, Patent Claim 1, lines 7-13) to drive the image sensing device to vertically mix or cull signal charges accumulated in individual pixels of every K pixels to produce a number of lines of output signals which corresponds to the number of effective scanning lines M, K being at least one of integers equal to or less than an integral part of a quotient of N divided by M;

a signal processing unit (a signal processing unit, Patent Claim 1, lines 14-15) to generate image signals by using the output signals of the image sensing device;

wherein the driving by the first driver mode and the driving by the second driver mode are selectively switched according to input information from a switch provided inside or outside the electric camera (Patent Claim 1, lines 23-26).

Patent Claim 1 fails to disclose a second driver mode to drive the image sensing device to vertically mix or cull signal charges accumulated in individual pixels of every K pixels to produce, during a vertical effective scanning period of the television system, a number of lines of output signals which corresponds to $1/K$ the number of vertically arranged pixels N of the image

sensing device, K being an integer equal to or less than an integral part of a quotient of N divided by M.

However, Patent Claim 1 discloses the driver drives the image sensing device in at least two modes corresponds to the at least two integers (Patent Claim 1, lines 20-22). And Kijima et al. discloses an electric camera comprising:

said driver also including a second driver mode to drive the image sensing device to vertically mix or cull signal charges accumulated in individual pixels of every K pixels to produce, during a vertical effective scanning period of the television system, a number of lines of output signals which corresponds to $1/K$ the number of vertically arranged pixels N of the image sensing device, K being an integer equal to or less than an integral part of a quotient of N divided by M (figure 1, column 3, lines 25-67; column 4, line 57 – column 5, line 42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Patent Claim 1 by the teaching Kijima et al. in order to provide an electric camera which has capability of operating in two different modes.

Regarding instant application claim 17, all the limitations of the instant application claim 17 are encompassed by the limitations of Patent Claim 2.

Regarding instant application claim 18, all the limitations of the instant application claim 18 are encompassed by the limitations of Patent Claim 3.

Regarding instant application claim 19, all the limitations of the instant application claim 19 are encompassed by the limitations of Patent Claim 4.

Regarding instant application claim 20, all the limitations of the instant application claim 20 are encompassed by the limitations of Patent Claim 5.

Regarding instant application claim 21, all the limitations of the instant application claim 21 are encompassed by the limitations of Patent Claim 6.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571)272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LUONG T NGUYEN/
Primary Examiner, Art Unit 2622
02/27/11